

U.S. Serial No. 09/989,277
Response to Office Action
Mailed August 11, 2005

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REMARKS

Responsive to the Office Action mailed August 11, 2005, applicant hereby traverses the judicially created obviousness-type double patenting rejection based on claims 1-5 of U.S. Patent No. 6,889,750 in view of Munters, et al., U.S. Patent No. 3,125,157 and Morissette, et al., U.S. Patent No. 5,193,610. The present patent application is a divisional application of U.S. Serial No. 09/770,021 (just as U.S. Patent No. 6,889,750 is also a divisional thereof). Accordingly, under the first paragraph of MPEP 804(II)(B)(1)(b) "[g]enerally, a double patenting rejection is not permitted where the claimed subject matter is presented in a divisional application as a result of a restriction requirement made in a parent application under 35 U.S.C. 121." Consequently, the rejection is believed improper and accordingly claims 40-50 are deemed patentable over the art.

If the examiner persists in this rejection, further explanation of the inapplicability of MPEP 804 is requested.

Respectfully submitted,

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